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*Attorneys for Defendants Avenue 5 Residential, LLC
and Mercury Township Fee Owner, LLC*

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

KRYSS LONGWELL,

Plaintiff,

vs.

AVENUE 5 RESIDENTIAL LLC, and
MERCURY TOWNSHIP FEE OWNER,
LLC,

Defendants.

NO. 3:22-cv-00224

Multnomah County Circuit Court
Case No. 21CV49187

NOTICE OF REMOVAL

(Pursuant to Pursuant to 28 U.S.C. §
1441(b) and 28 U.S.C. § 1332 –
Diversity)

Clerk's Action Required

Jury Trial Demanded

TO: THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON:

PLEASE TAKE NOTICE THAT, Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446,
Defendants Avenue 5 Residential, LLC and Mercury Township Fee Owner, LLC removes to this
Court the case now pending in the Circuit Court of the State of Oregon, County of Multnomah

titled *Kryss Longwell v. Avenue 5 Residential, LLC and Mercury Township Fee Owner, LLC*, Cause No. 21CV49187 (the “State Court Action”).

As grounds for removal, Defendants state as follows:

I. COMMENCEMENT OF STATE COURT ACTION AND TIME FOR REMOVAL

The State Court Action was commenced when Plaintiff’s Summons and Complaint were filed in Multnomah County on December 29, 2021. Service of the Summons and Complaint was effected on Defendant Mercury Township Fee Owner, LLC on or about January 13, 2022. Service of the Summons and Complaint was effected on Defendant Avenue 5 Residential, LLC on or about January 25, 2022. This Notice of Removal is timely, in that it is being filed within thirty (30) days of the service of the Complaint upon both Defendant Mercury Township Fee Owner, LLC and Defendant Avenue 5 Residential, LLC.

Pursuant to 28 U.S.C. § 1446(a), true and correct copies of all process, pleadings, and orders served on Defendants are attached to this notice as Exhibit A.

II. APPLICABLE LAW

A party may seek removal of a State Court action where the amount in controversy exceeds \$75,000, exclusive of interest and costs, and the action is between citizens of different states. 28 U.S.C. § 1332(a)(1). If the plaintiff may recover attorney fees by statute or contract, the attorney-fee claim may be included in determining the amount in controversy, regardless of whether a fee award is mandatory or discretionary. *Loudermilk v. United States Bank Nat’l Assoc.*, 479 F.3d 994, 1000 (9th Cir 2007).

The defendant’s notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold. *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 89 (2014).

III. BASIS FOR REMOVAL

1. This is a premises liability lawsuit.
2. Plaintiff's Complaint seeks damages totaling \$526,708.64 and additionally seeks statutory attorney fees pursuant to ORS 90.255. Declaration of Ryan M. Tarter ("Tarter Decl."), ¶ 1. Defendants believe and therefore allege that the monetary value of the relief that Plaintiff seeks, and the amount of controversy, in this action exceeds \$75,000.
3. On the date of Plaintiff's Complaint was filed and the date of the filing of this Removal, Defendant Mercury Township Fee Owner, LLC is and was formed in the State of Delaware with its principal place of business in Los Angeles, California. Tarter Decl. ¶ 7.
4. On the date of Plaintiff's Complaint was filed and the date of the filing of this Removal, Defendant Avenue 5 Residential, LLC is and was formed in the State of Delaware with its principal place of business in Seattle, Washington. Tarter Decl. ¶ 6.
5. Based on information and belief, Plaintiff is an individual who at all times material hereto maintained her principal place of residence in Clackamas County, Oregon. Tarter Decl. ¶ 5.
6. No defendant in this action was a citizen of the State of Oregon as of December 29, 2021 or presently. Tarter Decl. ¶ 8.
7. The parties therefore are diverse. *See* 28 U.S.C. §§ 1332 (a)(1), 1332(a)(3), 1441(b)(2).
8. Venue is proper in the United States District Court for the District of Oregon, Portland Division, because the Circuit Court case is removed from the Multnomah County Circuit Court of Oregon.

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IV. NOTICE TO STATE COURT AND ADVERSE PARTIES

Defendants will promptly file a copy of this Notice with the clerk of the Multnomah County Circuit Court and will give written notice to all adverse parties. 28 U.S.C. § 1446(d).

DATED this 11th day of February, 2022.

THE CHARTWELL LAW OFFICES, LLP

By /s/ Ryan M. Tarter

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*Attorneys for Defendants Avenue 5 Residential,
LLC and Mercury Township Fee Owner, LLC*

CERTIFICATE OF SERVICE

I, Monique Taylor, declare as follows:

1) I am a citizen of the United States and a resident of the State of Oregon. I am over the age of 18 years and not a party to the within entitled cause. I am employed by The Chartwell Law Offices, LLP, whose address is 1050 SW 6th Avenue, Ste. 1100, Portland, OR 97204.

2) By the end of the business day on February 11, 2022, I caused to be served upon counsel of record at the addresses and in the manner described below, the following document(s):

NOTICE OF REMOVAL.

Counsel for Plaintiff
Kristen West McCall
PICKETT DUMMIGAN MCCALL, LLP
210 SW Morrison Street, Ste. 400
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Email: kristen@pdm.legal

☐ U.S. Mail
☐ Hand Delivery
☐ Facsimile
☐ Overnight
☒ E-mail
☒ E-Filing Court
Service

I declare under penalty of perjury under the laws of the State of Oregon that the foregoing is true and correct.

DATED this 11th day of February 2022.

/s/ Monique Taylor, Legal Assistant